

BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of  
  
Implementation of the Cable  
Television Consumer Protection  
And Competition Act of 1992:  
  
RATE REGULATION

MM Docket No. 92-266

[FCC 92-544]

INITIAL COMMENTS  
OF THE  
NATIONAL ASSOCIATION OF REGULATORY UTILITY COMMISSIONERS

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January 27, 1993

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Pursuant to Sections 1.49, 1.415, and 1.419 of the Federal Communications Commission's ("FCC" or "Commission") Rules of Practice and Procedure, 47 C.F.R. Sections 1.49, 1.415, and 1.419 (1992), the National Association of Regulatory Utility Commissioners ("NARUC") respectfully submits the following comments addressing the Commission's Notice of Proposed Rule Making ("NPRM") concerning Cable Rate Regulation as adopted December 10, 1992 in the above-captioned proceeding:

## I. INTEREST OF NARUC

NARUC is a quasi-governmental nonprofit organization founded in 1889. Its membership includes governmental bodies engaged in the regulation of carriers and utilities from all fifty States, the District of Columbia, Puerto Rico, and the Virgin Islands. The NARUC's mission is to improve the quality and effectiveness of public utility regulation in America. More specifically, NARUC is composed of, inter alia, State and territorial officials charged with the duty of regulating the telecommunications common carriers within their respective borders. As such, they have the obligation to assure the establishment of such telecommunications services and facilities as may be required by the public convenience and necessity, and the furnishing of service at rates that are just and reasonable.

The FCC has initiated an NPRM to address rates for cable service and leased commercial access. It appears likely that some cable operators will soon also provide intrastate communications services over their cable plant in competition with current local exchange carriers. Such services are subject to state jurisdiction under the current interpretation of the Communications Act. Obviously, the FCC's proposals may have direct effects on future state initiatives to oversee such intrastate services. Accordingly, the FCC's proposed action in this proceeding raises issues of concern to NARUC's State commission membership.

## II. BACKGROUND

On October 5, 1992, the Congress of the United States enacted the "Cable Television and Consumer Protection and Competition Act of 1992". The 1992 Cable Act provides, in part, that the rates for the provision of basic cable service shall be subject to regulation by the franchising authority if a cable system is not subject to effective competition.

The Cable Act establishes certain criteria for determining the reasonableness of the basic rate, which include:

- a - rates for cable systems subject to effective competition;
- b - direct costs of obtaining and transmitting basic tier signals;
- c - a portion of joint and common costs of obtaining and/or transmitting basic signals;
- d - revenues or other considerations obtained re: the basic tier;
- e - a reasonable portion of franchise fees or taxes imposed;
- f - an amount required to satisfy franchise requirements to carry public, education, or governmental channels; and
- g - a reasonable profit, as determined by the FCC.

On December 10, 1992, in response to the new legislation, the FCC adopted the instant NPRM seeking comment on proposed procedural and substantive alternatives for rate regulation and on basic tier service, cable programming services, equipment offered to subscribers, and commercial leased access offered to programmers.

Earlier, in November of 1992, NARUC, adopted a resolution addressing the new cable legislation. These comments are based upon that resolution. A copy of this resolution is attached as Appendix A for your information and use.

### III. DISCUSSION

- A. Where cable systems provide intrastate telecommunications services, the FCC should work cooperatively with State agencies to develop broad national guidelines and rules that promote shared Federal-State responsibility. In joint use situations, the FCC must assure a proper allocation of costs.

To the extent that cable operators provide intrastate telecommunications services using their cable plant, questions may arise with respect to jurisdictional separations issues and the allocation of costs to those services. In such circumstances, it is clear that the FCC's rate regulation of cable service offered over common facilities and the otherwise increasing competition into intrastate telecommunications services presents unique concerns for state regulators. Accordingly, to address cases where cable operators provide intrastate telecommunications services using their cable plant, NARUC urges the FCC to work cooperatively with the state regulatory agencies to develop broad national guidelines and rules that promote shared responsibility between the FCC and these agencies so that the States could be allowed to certify the adherence to the FCC guidelines and rules by local common carriers in their provision of services, much like the FCC has done with Telecommunications Relay Services or pole attachment agreements. Obviously, to the extent necessary successfully impose the required cable service regulation and, to the extent cable companies provide common carrier telecommunications services, the FCC must also assure a fair allocation of costs to all services.

- B. The FCC should collect data on the cable industry in electronic form and make it publicly available on a computer accessible dial-up data base.

In the NPRM, at paragraphs 123 and 124, the FCC asks for comment inter alia, "generally on the appropriate scope of information we should collect." Under the current structure of the Communications Act, State regulatory commissions have jurisdiction over intrastate telecommunications services. To the extent a cable operator provides Plain Old Telephone Service ("POTS"), or other intrastate telecommunications services over its facilities, it clearly will be subject to, inter alia, State POTS certification and/or franchising requirements. State regulators will need access to certain information concerning cable systems to adequately manage any transition from a monopoly to a competitive local "POTS-type" common carrier market that includes cable system-based POTS.

Moreover, for the FCC or their State surrogates to effectively manage and/or monitor the provision of cable service, certain basic industry information must be collected in a universally consistent manner. Accordingly, NARUC believes the FCC should collect at least a minimum level of information on the cable industry in electronic form, similar to the Automated Reporting Management Information System (ARMIS) used in the telecommunications industry. This information should be made publicly available on a computer accessible dial-up data base.

At a minimum, NARUC believes the information collected should include:

- 1 - financial information in a simple income-balance sheet;
- 2 - revenues by major category of service(s);
- 3 - market demographics, including number of customers served, number of customers passed, number of non-subscribers;
- 4 - detailed statistics on service quality, including number and type of customer complaints (downtime, loss of signal, interference, etc.);
- 5 - system capabilities, such as number of channels, bandwidth availability, fiber/copper deployment; and
- 6 - detailed description of common carrier type services provided by the cable provider.

As the earlier discussion suggests, NARUC is generally supportive of the general information gathering efforts encompassed in the FCC's December 10, 1992 adopted, and December 23, 1992 released, ORDER [FCC 92-545] requiring the submission of data which the FCC believes is "not competitively sensitive".

NARUC also supports an expanded version of the NPRM's proposed "Appendix C" Annual Report of Cable Television Systems, which includes the six categories of information detailed, supra.

It is unclear whether a representative sampling approach will ultimately be sufficient to allow appropriate oversight and cost allocations for cable systems that also provide POTS and/or other intrastate common carrier telecommunications services.



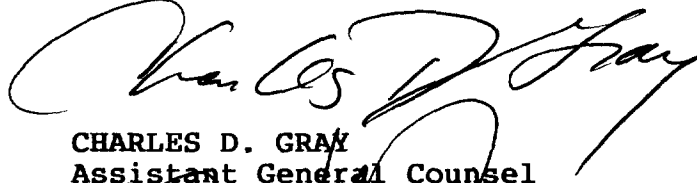
IV. CONCLUSION

NARUC respectfully requests that the FCC examine and give effect to these comments.

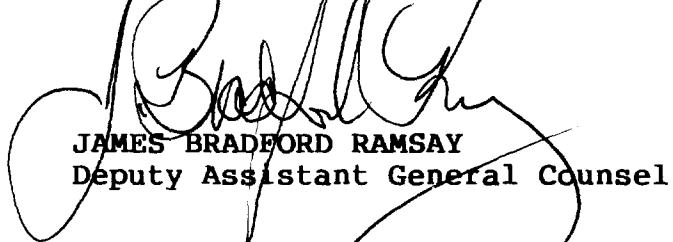
Respectfully submitted,



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January 27, 1993

**APPENDIX A**

**NATIONAL ASSOCIATION OF REGULATORY UTILITY COMMISSIONER'S  
NOVEMBER 1993  
RESOLUTION CONCERNING CABLE REGULATION**

**Resolution Concerning the FCC Regulations Applying to Cable TV**

**WHEREAS**, On October 5, 1992, the Congress of the United States overrode the President's veto and enacted the "Cable Television and Consumer Protection and Competition Act of 1992"; and

**WHEREAS**, The 1992 Cable Act provides, in part, that the rates for the provision of basic cable service shall be subject to regulation by the franchising authority if a cable system is not subject to effective competition; and

**WHEREAS**, Congress established certain criteria for determining the reasonableness of the basic rate, which include:

- rates for cable systems subject to effective competition;
- direct costs of obtaining and transmitting basic tier signals;
- a portion of joint and common costs of obtaining and/or transmitting basic signals;
- revenues or other considerations obtained in connection with basic tier;
- a reasonable portion of franchise fees or taxes imposed on cable operators;
- an amount required to satisfy franchise requirements to carry public, education, or governmental channels; and
- a reasonable profit, as determined by the FCC; and

**WHEREAS**, To the extent that cable operators provide intrastate telecommunications services using their cable plant, questions may arise with respect to jurisdictional separations issues and the allocation of costs to those services; and

**WHEREAS**, The rate regulation of cable providers and the introduction of competition into markets by other local common carriers presents unique concerns for state regulators who will need access to certain information to adequately manage any transition from a monopoly to a competitive local common carrier market; and

**WHEREAS**, The management and monitoring of any industry requires the collection of basic industry information in a universally consistent manner; now, therefore be it

**RESOLVED,** That the National Association of Regulatory Commissioners (NARUC), convened at its 104th Annual Convention in Los Angeles, California, urges the FCC to consider the following recommendations when considering the formulation of ratemaking for the cable television industry:

- the FCC should collect at least a minimum level of information on the cable industry in electronic form, such as the Automated Reporting Management Information System (ARMIS) used in the telecommunications industry;
- information should be made publicly available on a computer accessible dial-up data base;
- the information collected should include:
  - 1 - financial information in a simple income-balance sheet;
  - 2 - revenues by major category of service(s);
  - 3 - market demographics, including number of customers served, number of customers passed, number of non-subscribers;
  - 4 - detailed statistics on service quality, including number and type of customer complaints (downtime, loss of signal, interference, etc.);
  - 5 - system capabilities, such as number of channels, bandwidth availability, fiber/copper deployment;
  - 6 - detailed description of common carrier type services provided by the cable provider; and, be it further

**RESOLVED,** That the FCC should, to the extent necessary to carry out the form of regulation it adopts and only to the extent cable companies engage in the provision of common carrier services, assure a fair allocation of costs to all services; and be it further

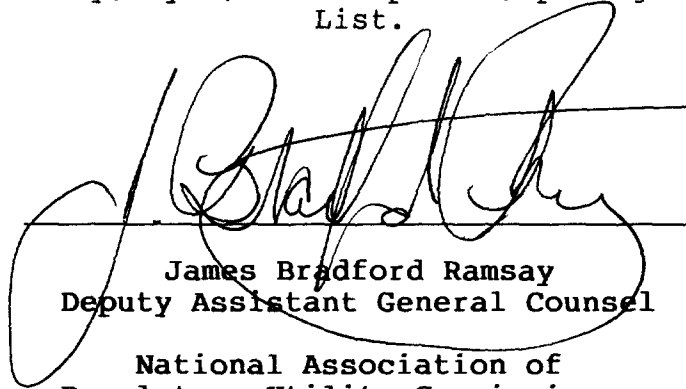
**RESOLVED,** That to the extent that cable operators provide intrastate telecommunications services using their cable plant, the FCC should work cooperatively with the state regulatory agencies and/or franchising authorities to develop broad national guidelines and rules that promote shared responsibility between the FCC and these agencies so that the States could be allowed to certify the adherence to the FCC guidelines and rules by local common carriers in their provision of these services, much like the FCC has done with Telecommunications Relay Services or pole attachment agreements.

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Sponsored by the Committee on Communications  
Adopted November 18, 1992

CERTIFICATE OF SERVICE

I, JAMES BRADFORD RAMSAY, certify that a copy of the foregoing  
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